

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 24, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

KRISTIAN GONZALEZ,

Intervenor-Plaintiff,

v.

CHIEF ORCHARDS
ADMINISTRATIVE SERVICES, INC.,

Defendant.

No. 2:21-cv-03125-MKD

ORDER GRANTING STIPULATED
MOTION FOR PROTECTIVE
ORDER

ECF No. 26

Before the Court is the parties' Stipulated Motion for Protective Order, ECF No. 26. This Court finds good cause, under Federal Rule of Civil Procedure 26(c), to issue an order to protect certain categories of information produced by a party in discovery in this matter to prevent annoyance, embarrassment, oppression, or

1 undue burden or expense.

2 **IT IS ORDERED:**

3 1. The parties Stipulated Motion for Protective Order, **ECF No. 26**, is

4 **GRANTED.**

PROTECTIVE ORDER

(1) The following categories of information produced by a party in discovery may be designated and treated as confidential in this litigation:

- (a) Social security and taxpayer-identification numbers;
- (b) Financial account numbers, bank statements, and personal financial information;
- (c) Credit card numbers;
- (d) Mother's maiden name;
- (e) Passwords;
- (f) Driver's license numbers or state identification numbers;
- (g) Dates of birth;
- (h) Home address and personal telephone numbers;
- (i) Names of minor children;
- (j) Medical, health care, and mental health records and information concerning any individual;
- (k) Tax forms;
- (l) Immigration status; and
- (m) Information that reveals trade secrets as defined by the Uniform Trade Secrets Act § 1(4), as amended (1985).

Documents that are available to the public may not be designated as Confidential Information.

(2) A party producing disclosures or discovery that contains information described in paragraph 1 that the party believes, in good faith, should be treated as

1 confidential in this litigation, may designate information contained within the
2 disclosures or discovery as confidential as follows:

3 (a) Documents and tangible items: a party producing documents or
4 tangible items in disclosures or discovery containing information that the party
5 wants to be treated as confidential must place a legend stating “confidential” on
6 each page or item that contains information that the party wants to be treated as
7 confidential, and, upon request, shall provide a letter to the attorneys for the other
8 Parties specifying what information in the document it wants to be treated as
9 confidential and specifying one or more of the bases enumerated in paragraph 1 for
10 confidential treatment;

11 (b) Deposition testimony: a Party that wants to treat a portion of
12 deposition testimony as confidential must do so by stating on the record at the
13 deposition that it wants to do so and by specifically identifying those portions of
14 the testimony that it wants to be treated as confidential or must, within 15 days
15 after receiving the transcript of the deposition, send a letter to the attorneys for the
16 other Parties specifying those portions of the deposition testimony that it wants to
17 be treated as confidential, and must specify one or more of the bases enumerated in
18 paragraph 1 for confidential treatment; provided that if a Party or non-Party desires
19 to protect confidential information at trial, the issue should be addressed during the
20 pre-trial conference;

(c) Only the specific information identified as “confidential” will
be treated as confidential, and the rest of the information in a document, tangible
item or deposition testimony will not be treated as confidential;

1 (d) If a party did not treat the information as confidential outside of
2 this litigation, the party may not designate the information as confidential;

3 (e) Only information that a party produces in disclosures or
4 discovery may be treated as confidential. Moreover, if the party receiving the
5 information designated as confidential has obtained or obtains the information
6 outside of disclosures or discovery in this lawsuit or from another person, the
7 information obtained outside of the disclosures or discovery process or from
8 another person will not be treated as confidential even if a different party has
designated it as confidential.

9 (f) An inadvertent failure to designate confidential information or
10 items does not, standing alone, waive a party's right to thereafter designate such
11 information as confidential under this Stipulated Order. A party may correct an
12 inadvertent failure to designate confidential information, and from that point in
13 time it shall be protected in accordance with this Stipulated Order.

14 (3) The party who receives information designated as confidential under
15 paragraphs 1 and 2 may, at any time, notify the party who requested the
16 confidential treatment that it objects to the confidentiality designation. The
17 objection must be in writing or stated on the record. The Parties will make good
18 faith efforts to resolve any objection. The information designated as confidential
19 will retain its status as confidential and will be treated as confidential for 10 days
20 after the objection to permit the party seeking confidential status to bring a motion
for a protective order. On any such motion, the party seeking confidential
treatment will have the burden of establishing that the information is entitled to

1 confidential treatment under applicable law. If such motion is brought, the
2 information will be treated as confidential until such time as the issue is resolved
3 by the Court. If the party who requested the confidential treatment does not file a
4 motion for a protective order within 10 days after a Party has objected to the
5 confidential designation, the information will not be treated as confidential.

6 (4) Information that has been designated as confidential under this Order
7 must be treated as confidential by the Parties and used only for the purposes of this
8 litigation. Information that has been designated as confidential under this Order
9 may only be disclosed by the Parties receiving the information to:

10 (a) Attorneys for the Parties and their agents and employees,
11 including legal, secretarial, intern, paralegal, clerical, supervisory, support, and
12 other staff;

13 (b) The Parties, including officers or managers of a Party who have
14 a need to know the information for purposes of this litigation;

15 (c) Aggrieved individual(s) on whose behalf the EEOC seeks relief
16 who have a need to know the information for purposes of this litigation and, if
17 applicable, her/his/their attorney(s);

18 (d) Expert (testifying and consulting) witnesses;

19 (e) The Court and Court personnel;

20 (f) Court reporters and videographers involved in recording
depositions and proceedings in this litigation;

(g) Individual(s) authorized by the Parties to conduct alternative
dispute resolution, such as mediators or neutral evaluators;

1 (h) The author or recipient of the Document (not including a person
2 who only received the document in the course of this litigation);

3 (i) Witness(es) identified by any Party to the litigation who have a
4 need to know the information for purposes of this litigation and, if applicable,
5 her/his/their attorney(s); and

6 (j) Any other individual a Party believes necessary to review such
7 information to assist the Party in its presentation or defense of claims in the
8 litigation.

9 (5) A Party who has designated information as confidential under this
10 Order may not use that designation as a reason for refusing to produce any
11 information, documents, tangible items or testimony in this or in any other matter,
12 including civil or criminal litigation, arbitration, administrative proceedings, or
13 government investigation, regardless of whether such information, documents,
14 tangible items or testimony is sought pursuant to a discovery request, subpoena,
15 request for information, or otherwise. If a Party is served with a subpoena or a
16 court order issued in other litigation that compels disclosure of any information or
17 items designated in this action as “confidential information,” that party must:

18 (a) promptly notify the designating Party in writing and include a
19 copy of the subpoena or court order; and

20 (b) promptly notify in writing the party who caused the subpoena
or order to issue in the other litigation that some or all of the material covered by
the subpoena or order is subject to this Order. Such notification shall include a
copy of this Order.

1 (6) EEOC may use any information designated confidential in furtherance
2 of its enforcement activities in any other matter in which the Party designating
3 such information as confidential has been named as a Party, but it must treat such
4 information as confidential until such time as the confidential treatment expires
5 under this Order or is withdrawn either by agreement of the Parties or by court
6 order. This paragraph shall not be construed to waive a Party's right to argue that
7 information it designated as confidential pursuant this Order is entitled to
8 confidential treatment in any other matter in which that Party has been named as a
9 party.

10 (7) This Order is binding on all individuals to whom confidential
11 information is disclosed under this Order, and all individuals who receive
12 confidential information under this Order must agree to be bound by this Order.
13 Counsel for each Party has the responsibility to disclose confidential information
14 only to people authorized to receive confidential material under this Order, to
15 disclose the terms of this Order to people who receive confidential information
16 under this Order, to obtain their agreement to be bound by the terms of this Order,
17 and to notify them that anyone who violates the provisions of this Order is subject
18 to the contempt powers of this Court.

19 (8) The Parties will comply with Federal Rule of Civil Procedure 5.2 and
20 the Court's local and individual rules governing privacy protections for filings
made with the Court. This Order does not alter the provisions of Federal Rule of
Civil Procedure 5.2. If a Party seeks to file with the Court any information that has
been designated as confidential under this Order that is not subject to redaction

1 under Federal Rule of Civil Procedure 5.2, it will give the other Parties reasonable
2 notice of its intention to file the information with the Court to enable a Party to
3 seek a protective order. A Party seeking to file a document containing information
4 that has been designated as confidential under this Order may file the document
5 without providing notice of its intention to file the document if the Party redacts
6 the confidential information from the document being filed.

7 (9) Within 90 days after the termination of this action, including all
8 appeals, each receiving Party must return all confidential material to the producing
9 party, including all copies and extracts thereof. Alternatively, the Parties may agree
10 upon appropriate methods of destruction. Notwithstanding this provision, counsel
11 are entitled to retain archival copies of all documents filed with the court, trial,
12 deposition, and hearing transcripts, correspondence, deposition and trial exhibits,
13 expert reports, attorney work product, and consultant and expert work product,
14 even if such materials contain confidential material. The EEOC is further
15 authorized to retain confidential information to the extent required by law
16 (including without limitation the Federal Records Act and regulations issued by the
17 National Archives and Records Administration, 44 U.S.C. Chapter 33), provided
18 that any such confidential information remains subject to protection under this
19 agreement.

20 (10) This Order is subject to modification at any time by written agreement
of the Parties or upon Court Order. Any person may seek an Order to modify or
vacate this Order.

1 **IT IS SO ORDERED.** The District Court Executive is directed to file this order
2 and provide copies to the parties.

3 DATED August 24, 2022.

4 *s/Mary K. Dimke*
5 MARY K. DIMKE
6 UNITED STATES DISTRICT JUDGE
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